

Pt. 226, App. A

12 CFR Ch. II (1–1–13 Edition)

§ 226.47(c). No funds may be disbursed for a private education loan until the three-business day period has expired.

(e) *Self-certification form.* For a private education loan intended to be used for the postsecondary educational expenses of a student while the student is attending an institution of higher education, the creditor shall obtain from the consumer or the institution of higher education the form developed by the Secretary of Education under section 155 of the Higher Education Act of 1965, signed by the consumer, in written or electronic form, before consummating the private education loan.

(f) *Provision of information by preferred lenders.* A creditor that has a preferred lender arrangement with a covered educational institution shall provide to the covered educational institution the information required under §§ 226.47(a)(1) through (5), for each type of private education loan that the lender plans to offer to consumers for students attending the covered educational institution for the period beginning July 1 of the current year and ending June 30 of the following year. The creditor shall provide the information annually by the later of the 1st day of April, or within 30 days after entering into, or learning the creditor is a party to, a preferred lender arrangement.

**APPENDIX A TO PART 226—EFFECT ON
STATE LAWS**

REQUEST FOR DETERMINATION

A request for a determination that a State law is inconsistent or that a State law is substantially the same as the Act and regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The request shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

SUPPORTING DOCUMENTS

A request for a determination shall include the following items:

(1) The text of the State statute, regulation, or other document that is the subject of the request.

(2) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision.

(3) A comparison of the State law with the corresponding provision of the Federal law,

including a full discussion of the basis for the requesting party's belief that the State provision is either inconsistent or substantially the same.

(4) Any other information that the requesting party believes may assist the Board in its determination.

PUBLIC NOTICE OF DETERMINATION

Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the FEDERAL REGISTER, with an opportunity for public comment, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), all requests made, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

NOTICE AFTER DETERMINATION

Notice of a final determination will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the party who made the request and to the appropriate State official.

Reversal of Determination

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of State or Federal law.

Notice of reversal of a determination will be published in the FEDERAL REGISTER and a copy furnished to the appropriate State official.

[Reg. Z, 46 FR 20892, Apr. 7, 1981; 46 FR 29246, June 1, 1981]

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

SOURCE: 75 FR 7818, Feb. 22, 2010, unless otherwise noted.

§ 226.51 Ability to Pay.

(a) *General rule.* (1)(i) *Consideration of ability to pay.* A card issuer must not open a credit card account for a consumer under an open-end (not home-secured) consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the consumer's independent ability to make the required minimum periodic payments under the terms of

the account based on the consumer's income or assets and current obligations.

(ii) *Reasonable policies and procedures.* Card issuers must establish and maintain reasonable written policies and procedures to consider a consumer's independent income or assets and current obligations. Reasonable policies and procedures to consider a consumer's independent ability to make the required payments include the consideration of at least one of the following: The ratio of debt obligations to income; the ratio of debt obligations to assets; or the income the consumer will have after paying debt obligations. It would be unreasonable for a card issuer to not review any information about a consumer's income, assets, or current obligations, or to issue a credit card to a consumer who does not have any independent income or assets.

(2) *Minimum periodic payments.* (i) *Reasonable method.* For purposes of paragraph (a)(1) of this section, a card issuer must use a reasonable method for estimating the minimum periodic payments the consumer would be required to pay under the terms of the account.

(ii) *Safe harbor.* A card issuer complies with paragraph (a)(2)(i) of this section if it estimates required minimum periodic payments using the following method:

(A) The card issuer assumes utilization, from the first day of the billing cycle, of the full credit line that the issuer is considering offering to the consumer; and

(B) The card issuer uses a minimum payment formula employed by the issuer for the product the issuer is considering offering to the consumer or, in the case of an existing account, the minimum payment formula that currently applies to that account, provided that:

(1) If the applicable minimum payment formula includes interest charges, the card issuer estimates those charges using an interest rate that the issuer is considering offering to the consumer for purchases or, in the case of an existing account, the interest rate that currently applies to purchases; and

(2) If the applicable minimum payment formula includes mandatory fees, the card issuer must assume that such fees have been charged to the account.

(b) *Rules affecting young consumers.* (1) *Applications from young consumers.* A card issuer may not open a credit card account under an open-end (not home-secured) consumer credit plan for a consumer less than 21 years old, unless the consumer has submitted a written application and the card issuer has:

(i) Financial information indicating the consumer has an independent ability to make the required minimum periodic payments on the proposed extension of credit in connection with the account, consistent with paragraph (a) of this section; or

(ii)(A) A signed agreement of a cosigner, guarantor, or joint applicant who is at least 21 years old to be either secondarily liable for any debt on the account incurred by the consumer before the consumer has attained the age of 21 or jointly liable with the consumer for any debt on the account, and

(B) Financial information indicating such cosigner, guarantor, or joint applicant has the ability to make the required minimum periodic payments on such debts, consistent with paragraph (a) of this section.

(2) *Credit line increases for young consumers.* If a credit card account has been opened pursuant to paragraph (b)(1)(ii) of this section, no increase in the credit limit may be made on such account before the consumer attains the age of 21 unless the cosigner, guarantor, or joint account holder who assumed liability at account opening agrees in writing to assume liability on the increase.

[75 FR 7818, Feb. 22, 2010, as amended at 76 FR 23002, Apr. 25, 2011]

§ 226.52 Limitations on fees.

(a) *Limitations prior to account opening and during first year after account opening.* (1) *General rule.* Except as provided in paragraph (a)(2) of this section, the total amount of fees a consumer is required to pay with respect to a credit card account under an open-end (not home-secured) consumer credit plan prior to account opening and during the first year after account opening